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Comparing Upper Chambers Across the World

Paper One: Bicameralism

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Introduction

This is the first in a series of papers which seeks to explore and compare upper chambers across the world with the British House of Lords. By describing and analysing the variety of experiences that different countries have had with their upper houses, lessons can be learned. This topic has gained increased salience with the election of the Labour government in 2024 which has promised various reforms of the House of Lords in its election manifesto. This series of papers will provide information about upper houses in different countries to inform the debate over future reform of the Lords.

This paper will examine the concepts of bicameralism and unicameralism, showing that the vast majority of the world's largest democracies follow a bicameral structure. Moreover, it will also look at the history of upper chambers and how they have developed over time, showing that they play an important role, supporting and complementing the work of their lower counterparts. This will provide the necessary background for future papers in the series. The next paper will consider the issue of membership and composition in upper chambers across the world, as well as the House of Commons. Further papers in this series will explore the powers and role of upper houses. The series will also include analyses of successful and unsuccessful reforms to upper houses across the world as these case studies will prove useful for guiding the British experience of reform.

I. Bicameralism

1.1 Bicameralism is a system of government where the legislature is divided into two chambers or houses. Phillip Norton defines legislatures as 'constitutionally designated institutions for giving assent to binding measures of public policy, that assent being given on behalf of a political community that extends beyond the government elite responsible for formulating these measures.'¹

1.2 More precise definitions of upper chambers are mostly absent from the literature because upper chambers vary so much in terms of their role, membership, history and powers. The terms for them vary as well. This series of papers will use the terms upper house, upper chamber and second chamber interchangeably as there is little difference between these terms.² There is also some dispute over whether specific cases, such as the *Bundesrat*, are technically upper houses or not – whilst this series of papers will deal with these cases as they arise, it will tend towards taking a broad view of the definition of bicameralism.

1.3 The two parts of the legislature often have different structures, roles and powers as they often represent different interests, regions or parts of society. As of 2024, 58.4% of national legislatures

¹ Philip Norton, "Adding Value? The Role of Second Chambers." *Asia Pacific Law Review* 15, no. 1 (2007): 3.

² The exception to this is the Netherlands where the Senate or upper house is literally known as the "First Chamber".

are unicameral whereas 41.6% of national legislatures are bicameral.³ On a subnational level, unicameral chambers dominate, though in countries like the United States and Australia bicameral legislatures in the states and territories are the norm. These numbers however, may paint a skewed picture as unicameral countries tend to be geographically smaller and less populated, thus giving unicameral systems an outsized importance that does not reflect the reality when it comes to liberal democracies.

1.4 Throughout the 20th century there was a decline in bicameralism, especially in unitary states as opposed to federal ones.⁴ According to figures from the Inter-Parliamentary Union (IPU) the proportion of bicameral parliaments around the world fell from 59% in 1961 to 46% in 1976.⁵ Further declines followed in the next decades with 34% of legislatures being bicameral in 1986, and 33% in 1996, with this pattern repeating itself on a subnational level.⁶ Arguably however, there has been a small revival in bicameralism coinciding with the third wave of democratisation, especially in Eastern Europe, with new democracies like Poland and the Czech Republic adopting an upper house. The decline in bicameralism has levelled off and currently there is no solid trend either towards or against bicameral legislatures. The percentages in this paragraph, are not weighted by population numbers. See also table 2.5 below, and paragraph 2.6.

1.5 Bicameralism and second chambers in general have been remarkably understudied given their importance in the political system.⁷ Lower houses have been the subject of a number of comparative studies but with a small number of exceptions upper houses have not received the same treatment.⁸ The studies that exist are either increasingly out of date, or not focussed in sufficient depth on the House of Lords. Second chambers, with the possible exception of the United States Senate, do not engender the same prestige as their counterparts. According to Phillip Norton, the lack of research on upper houses can be partially attributed to their perceived subordinate status – they are after all, *second* chambers.⁹ This set of research papers aims to address that inequality and to shine further light on an important topic.

2. Unicameralism

2.1 Bicameralism is best contrasted with Unicameralism, a system of legislature with only one chamber.¹⁰ There are examples of other legislative set-ups including the tricameralism practised by the French *Ancien Régime* or even the tetracameralism of the Swedish *Riksdag* but these were rare and are no longer operating.¹¹

2.2 As stated above, unicameralism is used in a small majority of countries around the world. At a subnational level this difference is starker with only 73 state legislatures that can be considered

³ IPU Parline, “The Structure of Parliament: Compare Data on Parliaments,” *Inter-Parliamentary Union*, December 8th 2024, accessed December 8th 2024,

https://data.ipu.org/compare/?field=structure_of_parliament®ion=0&chart=pie&year_to=2024#.

⁴ John Coakley, “The Strange Revival of Bicameralism,” *The Journal of Legislative Studies* 20, no. 4 (2014): 542.

⁵ Coakley, “The Strange Revival of Bicameralism,” 543.

⁶ Coakley, “The Strange Revival of Bicameralism,” 543.

⁷ Meg Russell, “What Are Second Chambers For?,” *Parliamentary Affairs* 54, no. 3 (2001): 442.

⁸ R. L. Borthwick, “Methods of Composition of Second Chambers,” *Journal of Legislative Studies* 7, no. 1 (2001): 19-26; Meg Russell, *Reforming the House of Lords: Lessons From Overseas*, (Oxford: Oxford University Press, 2000); Meg Russell, “Elected Second Chambers and Their Powers: An International Survey,” *The Political Quarterly* 83, no. 1 (2012): 117-129; Michelangelo Vercesi, “What Kind of Veto Player Is the Italian Senate? A Comparative Analysis of European Second Chambers,” *Journal of Modern Italian Studies* 22 no. 5, (2017): 604–23.

⁹ Norton, “Adding Value?,” 3.

¹⁰ Esther Majambere, “Bicameralism or Unicameralism: A Case of the United Kingdom and Uganda,” *European Journal of Law Reform* 12, no. Issue 3-4 (2010): 418.

¹¹ Paolo Passaglia, “Unicameralism, Bicameralism, Multicameralism: Evolution and Trends in Europe,” *Perspectives on Federalism* 10, no. 2 (2018): 4-6.

bicameral, from out of over 450.¹² However, comparing the popularity of bicameralism and unicameralism in terms of pure numbers can be misleading, see also Table 2.5 below and paragraph 2.6.

2.3 There are several features that unicameral countries share. The first is that they tend to be unitary states, as bicameralism is closely associated with federalism.¹³ However, three factors are even more important in determining whether a country has a unicameral system, these are size, population, and the stability of democracy.¹⁴ Unicameral countries are on the whole, smaller and less populated than their bicameral counterparts. In smaller countries, a second chamber can be regarded as too costly and redundant, moreover, there is less of a need to represent far-flung regions.

2.4 Stable democracies are also more likely to be bicameral because unicameral legislatures arise for two main reasons. One is that unicameral systems come about due to the creation of a new country or democracy, and these have not had enough time to consolidate. Another reason is that bicameral legislatures are often replaced by unicameral ones during an anti-democratic event such as a revolution or military coup, as the upper house is seen as being tied to the old regime or elite.¹⁵ Paradoxically then, bicameral systems, derided by their opponents as undemocratic, are strongly associated with stable democracies.

2.5 Table of Electoral Democracies by Population¹⁶

Country	Structure of parliament	Population
India	Bicameral	1,404,910,000
United States of America	Bicameral	335,893,238
Brazil	Bicameral	203,080,756
Mexico	Bicameral	130,154,247
Japan	Bicameral	123,790,000
Philippines	Bicameral	114,163,719
Germany	Bicameral	84,708,010
France	Bicameral	68,551,000
United Kingdom	Bicameral	68,265,209
South Africa	Bicameral	63,015,904
Italy	Bicameral	58,968,499
Colombia	Bicameral	52,695,952
Kenya	Bicameral	52,428,290
South Korea	Unicameral	51,248,233
Spain	Bicameral	48,946,035
Argentina	Bicameral	47,067,441
Poland	Bicameral	37,532,000
Peru	Unicameral	34,038,457
Ghana	Unicameral	33,007,618
Madagascar	Bicameral	30,811,969

¹² Louis Massicotte, "Legislative Unicameralism: A Global Survey and a Few Case Studies," *Journal of Legislative Studies* 7, no. 1 (2001): 151.

¹³ Massicotte, "Legislative Unicameralism," 152.

¹⁴ Massicotte, "Legislative Unicameralism," 152.

¹⁵ Massicotte, "Legislative Unicameralism," 152.

¹⁶ This table shows electoral democracies (taken from Freedom House's *Freedom in the World 2024*), with a population above 20 million as of 2024 taken from official census results and U.N. estimates. Structure of parliament data is taken from IPU Parline.

Nepal	Bicameral	29,164,578
Australia	Bicameral	27,122,411
Sri Lanka	Unicameral	21,916,000
Malawi	Unicameral	20,270,568
Chile	Bicameral	20,086,377

2.6 As seen in Table 2.5, the vast majority of the world's larger democracies are bicameral. South Korea is the only unicameral country with a population of greater than 50 million. All other unicameral countries have a population of half the size or smaller compared to that of the United Kingdom. From the 25 democracies with a population greater than 20 million, only five, or 20% are unicameral, showing that a single-chamber parliamentary structure is rarely adopted by larger, more populous countries. Another pattern also emerges which is that of the larger unicameral states; many of them are emerging democracies such as Peru, Ghana, Sri Lanka and Malawi. These countries do not have the same consolidated democratic tradition that say, the United States, Germany, France and the United Kingdom has.

2.7 If the table were to be extended to smaller countries, unicameral systems would start to appear more, with countries such as Greece, Sweden, Portugal and Israel having populations over ten million, and a unicameral system. Of the thirteen democratic countries with a population between ten and twenty million, six are unicameral: a little under half. It is only when it comes to smallest democracies that unicameral systems really start to predominate. Of the 69 democracies with under ten million people, 50 are unicameral, or 72%. Many of the small number of bicameral legislatures in that group are Commonwealth countries such as Grenada, St Lucia and Jamaica, owing their parliamentary structure to their shared history with the United Kingdom.

2.8 Whilst second chambers are meant to act as a check against the lower house and the executive, and as a method of improving decision-making, arguably unicameral systems can still fulfil this function in different ways. Government excesses can be curbed by a more active judiciary, for example, and legislative scrutiny can be performed by committees in the single chamber.¹⁷ Referendums and greater media scrutiny can also provide a check to the power of a single chamber, but their effectiveness, at least when compared to a functional upper chamber, cannot be guaranteed.¹⁸

3. History

3.1 In order to properly understand the role of upper houses it is key to understand their history. Upper houses have a storied history dating back to the earliest conceptions of republican and democratic government in Ancient Greece and Rome. Ancient Athens had a popular assembly open to all male citizens as well as a de-facto upper house that consisted of a limited number of nobles. Ancient Rome had the Senate where the Patrician class was represented. The Roman Senate lends its name to many upper houses today, with the central reasoning behind its establishment influencing the creation of its modern day counterparts.¹⁹ Namely that power should not be concentrated in a single institution, individual or class, and that good governance requires input from diverse sources but especially 'the wise, the experienced, the distinguished, the elderly and the meretricious'.²⁰

3.2 In the Medieval period, bicameralism emerged with the creation of the English parliament, one of the earliest recognisable legislatures in the world. Originally unicameral, a second chamber was

¹⁷ Massicotte, "Legislative Unicameralism," 165.

¹⁸ Massicotte, "Legislative Unicameralism," 165.

¹⁹ Donald Shell, "The History of Bicameralism," *Journal of Legislative Studies* 7, no. 1 (2001): 6;

²⁰ Shell, "The History of Bicameralism," 5-6.

created in 1341 in order to ensure representation for the church and the nobility.²¹ Within the English system, the king represented the monarchy, with the Lords providing the aristocratic element and the Commons representing the democratic or popular element.²² The upper house often served as an intermediary between the Commons and the monarch. This model of the “upper” and “lower” classes being represented by an “upper” and “lower” chamber influenced future understanding of the role of the second chamber.²³

3.3 During the Enlightenment there was a revival of the ideas of bicameralism, spearheaded by a series of liberal thinkers. Montesquieu argued for a second chamber in *The Spirit of The Laws* stating that, ‘legislative power will be entrusted both to the body of the nobles and to the body that will be chosen to represent the people, each of which will have assemblies and deliberations apart and have views and interests.’²⁴ He would end up being the principal source for theories such as the separation of powers and checks and balances, which are a key feature of many democratic constitutions in the world today.

3.4 The American Founding Fathers were also influenced by bicameralism, though the form developed in the United States was different because the country had a federal system. In *Federalist No. 62*, James Madison defends the institution of the American Senate, which was initially appointed by state legislatures, with every state having an equal number of Senators regardless of size. Madison affirms the importance of checks and balances arguing that, ‘a senate, as a second branch of the legislative assembly, distinct from, and dividing the power with, a first, must be in all cases a salutary check on the government. It doubles the security to the people, by requiring the concurrence of two distinct bodies in schemes of usurpation or perfidy, where the ambition or corruption of one would otherwise be sufficient.’²⁵ He further stressed the importance of a second chamber as a place of calm deliberation writing that ‘the necessity of a senate is not less indicated by the propensity of all single and numerous assemblies to yield to the impulse of sudden and violent passions, and to be seduced by factious leaders into intemperate and pernicious resolutions.’²⁶

3.5 This historical context highlights the importance of bicameralism in the creation of western liberal democracy. Whilst certain changes have been made over time – for example, at the dawn of the 20th century Austria, Germany, Russia, Spain and Hungary still had hereditary elements in their upper houses, and now no longer do – bicameral systems have been remarkably resilient, with only a few countries reverting to unicameralism.²⁷ Further papers in this series will examine some of these reforms in more detail.

4. Benefits of Upper Houses

4.1 Having briefly described the history of bicameralism and upper houses, this paper will now move on to discuss some of their strengths and benefits. Early justifications for an upper house concerned representation, i.e. the need for representing the minorities in the body politic.²⁸ These minorities could be religious, linguistic, ethnic or class minorities.²⁹ In some countries the desire for

²¹ Shell, “The History of Bicameralism,” 5.

²² Shell, “The History of Bicameralism,” 7-8.

²³ Russell, “What Are Second Chambers For?,” 443.

²⁴ Montesquieu, *The Spirit of the Laws*, ed. Anne M. Cohler, Basia C. Miller, and Harold S. Stone (Cambridge: Cambridge University Press, 1989), 160.

²⁵ James Madison, “Federalist No. 62: The Senate,” *Library of Congress*, 1788, accessed December 8, 2024, <https://guides.loc.gov/federalist-papers/text-61-70#s-lg-box-wrapper-25493450>.

²⁶ Madison, “Federalist No. 62: The Senate”.

²⁷ Shell, “The History of Bicameralism,” 13-14.

²⁸ Shell, “The History of Bicameralism,” 17.

²⁹ Meg Russell, *The Contemporary House of Lords: Westminster Bicameralism Revived*. (Oxford: Oxford University Press, 2013), 44.

representation took a different form: the nature of their federal system led them to seek representation of their regions or states through the creation of an upper chamber.³⁰

4.2 Arguably the key justification and benefit of upper houses is the idea that second chambers can produce a second opinion.³¹ One version of this argument sees the second chamber as a quality-control mechanism, on the rationale that two opinions are better than one; mistakes will be discovered and laws improved merely by the presence of an ‘extra set of eyes’.³²

4.3 However, another, stronger version of this argument sees the second chamber not just as a “second” chamber – providing another opinion – but as an “upper” chamber – providing a more carefully informed opinion because of its membership and function.³³ This typology, whilst featuring some overlap between the two sets of arguments, can be used to neatly categorise the justifications and advantages of an upper house.

4.4 The idea that two chambers allow for two different styles of deliberation can be summed up via an anecdote from Laurence Sterne’s *Tristram Shandy*: ‘The ancient Goths of Germany... had... a wise custom of debating of everything of importance to the state, twice; that is, once drunk and once sober. Drunk, that their councils might not want vigour, and sober, that they might not want discretion.’³⁴ It is up to the reader to decide which house is ‘intoxicated’ and which one full of ‘slow, deliberate wisdom.’³⁵

4.5 The notion that difference is crucial to bicameralism was argued by Jeremy Bentham who thought that otherwise a second chamber would be redundant, delaying and costing money with little discernible effect; even with a differentiation between the two chambers however, Bentham still opposed bicameralism on utilitarian grounds saying it owed its existence to ‘authority-begotten and blind custom-begotten prejudice.’³⁶

4.6 Yet the argument that upper houses simply offer another opinion, is often buttressed by claims that their opinion is, in fact more informed, in some respects. In systems where the upper house is not (fully) elected, these claims are made more carefully, with an understanding that an undemocratic upper house cannot carry out all of the necessary functions of a legislature – it is roles like scrutiny and law-making where expertise is stressed, not representation. The members of the upper house are taken to be more expert and more experienced than that of the lower house, on particular issues and functions. In the case of the House of Lords, the relative independence of peers is seen as a virtue. Legislative debates can go beyond party lines and feature ‘bright, specialist knowledge’ which may be missing from the lower house.³⁷ Walter Bagehot wrote that ‘with a perfect lower House, it is certain than an upper House would be scarcely of any value,’³⁸ – since no first chamber can be perfect, a second one is needed to complement it.

4.7 In practice, although so-called “redundancy”, the duplication that takes place in a parliament with two chambers, is an important function and strength of bicameralism, the two chambers end up playing different roles.³⁹ A certain amount of redundancy stays, as the overlap between the functions

³⁰ Meg Russell, “The Territorial Role of Second Chambers,” *Journal of Legislative Studies* 7, no. 1 (2001): 105.

³¹ Adrian Vermeule, “Second Opinions and Institutional Design,” *Virginia Law Review* 97, no 6, (2011): 1436.

³² Vermuele, “Second Opinions and Institutional Design,” 1436.

³³ Vermuele, “Second Opinions and Institutional Design,” 1437.

³⁴ Laurence Sterne, *The Life and Opinions of Tristram Shandy, Gentleman*, (1767; reis., London: Penguin Classics 2012), 419; Sterne almost certainly took this passage from Herodotus.

³⁵ Jeremy Waldron, “Bicameralism and the Separation of Powers,” *Current Legal Problems* 65, no. 1 (2012): 33.

³⁶ Waldron, “Bicameralism and the Separation of Powers,” 35; Lewis Rockow, “Bentham on the Theory of Second Chambers,” *American Political Science Review* 22, no. 3 (1928): 578.

³⁷ Edward Pearce, “An Elected Upper House and Other Fallacies,” *The Political Quarterly* 80, no. 4 (2009): 497.

³⁸ Walter Bagehot, *The English Constitution*, 6th ed. (London: Kegan Paul, Trench, Trübner & Company, 1891), 107.

³⁹ Russell, *The Contemporary House of Lords*, 45.

of the two chambers remain, but there is a natural divergence over time, as the role of the chambers changes based on the political system and membership of each house. This allows each house to play to its strengths – the upper house can focus on scrutiny and law-making, whereas the lower house can focus on democratic engagement with the people.

4.8 Having laid out some of the justifications and benefits of upper chambers here, the rest of papers in this series will consider how accurately different upper chambers fulfil these justifications and how and why their effectiveness differs. By considering factors such as the role, powers, membership and composition of upper houses it will be possible to judge how much upper houses conform to John A. McDonald's maxim that they are a place of 'sober second thought', improving the legislative process and strengthening democracy as a whole.⁴⁰

5. Further Papers and Case Studies

5.1 Looking ahead to further papers in the series, these will undertake a comparative analysis of second chambers around the world. Several countries will make up the bulk of the analysis. The first two cases that will be considered are Canada and Australia. These countries share the United Kingdom's Westminster Model of governance and have a shared history and language with the UK making them prime targets for analysis and comparison. Germany will be another point of comparison with the German Bundesrat, an appointed upper house that represents Germany's sixteen Länder, serving as a fascinating case of a European territorial second chamber. Finally, the United States Senate, one of the most well-known and powerful upper houses, will also be used for comparison.

Bibliography

Bagehot, Walter. *The English Constitution*. 6th ed. London: Kegan Paul, Trench, Trübner & Company, 1891.

Borthwick, R. L. "Methods of Composition of Second Chambers." *Journal of Legislative Studies* 7, no. 1 (2001): 19-26.

Coakley, John. "The Strange Revival of Bicameralism." *The Journal of Legislative Studies* 20, no. 4 (2014): 542-572.

Freedom House. "List of Electoral Democracies." *Freedom in the World 2024*. December 12th 2024. Accessed December 12th 2024.

IPU Parline. "The Structure of Parliament: Compare Data on Parliaments." *Inter-Parliamentary Union*. December 8th 2024. Accessed December 8th 2024.
https://data.ipu.org/compare/?field=structure_of_parliament®ion=0&chart=pie&year_to=2024#.

Lawlor, Andrea and Erin Crandall. "Committee Performance in the Senate of Canada: Some Sobering Analysis for the Chamber of 'Sober Second Thought.'" *Commonwealth & Comparative Politics* 51, no. 4 (2013): 549–68.

Madison, James. "Federalist No. 62: The Senate" *Library of Congress*. 1788. Accessed December 8th 2024. <https://guides.loc.gov/federalist-papers/text-61-70#s-lg-box-wrapper-25493450>.

⁴⁰Andrea Lawlor, and Erin Crandall. "Committee Performance in the Senate of Canada: Some Sobering Analysis for the Chamber of 'Sober Second Thought,'" *Commonwealth & Comparative Politics* 51 no. 4 (2013): 557.

- Majambere, Esther. "Bicameralism or Unicameralism: A Case of the United Kingdom and Uganda." *European Journal of Law Reform* 12, no. Issue 3-4 (2010): 416-425.
- Massicotte, Louis. "Legislative Unicameralism: A Global Survey and a Few Case Studies." *Journal of Legislative Studies* 7, no. 1 (2001): 151-170.
- Montesquieu. *The Spirit of the Laws*. Edited by Anne M. Cohler, Basia C. Miller, and Harold S. Stone. Cambridge: Cambridge University Press, 1989.
- Norton, Philip. "Adding Value? The Role of Second Chambers." *Asia Pacific Law Review* 15, no. 1 (2007): 3-18.
- Passaglia, Paolo. "Unicameralism, Bicameralism, Multicameralism: Evolution and Trends in Europe." *Perspectives on Federalism* 10, no. 2 (2018): 1-29.
- Pearce, Edward. "An Elected Upper House and Other Fallacies." *The Political Quarterly* 80, no. 4 (2009): 495-501.
- Rockow, Lewis. "Bentham on the Theory of Second Chambers." *American Political Science Review* 22, no. 3 (1928): 576-590.
- Russell, Meg. "Elected Second Chambers and Their Powers: An International Survey." *The Political Quarterly* 83, no. 1 (2012): 117-129.
- Russell, Meg. "The Territorial Role of Second Chambers." *Journal of Legislative Studies* 7, no. 1 (2001): 105-118.
- Russell, Meg. "What Are Second Chambers For?." *Parliamentary Affairs* 54, no. 3 (2001): 442-458.
- Russell, Meg. *Reforming the House of Lords: Lessons From Overseas*. Oxford: Oxford University Press, 2000.
- Russell, Meg. *The Contemporary House of Lords: Westminster Bicameralism Revived*. Oxford: Oxford University Press, 2013.
- Shell, Donald. "The History of Bicameralism." *Journal of Legislative Studies* 7, no. 1 (2001): 5-18.
- Sterne, Laurence. *The Life and Opinions of Tristram Shandy, Gentleman*, London: Penguin Classics, 2012. First published 1767.
- Vercesi, Michelangelo. "What Kind of Veto Player Is the Italian Senate? A Comparative Analysis of European Second Chambers." *Journal of Modern Italian Studies* 22, no. 5, (2017): 604-23.
- Vermeule, Adrian. "Second Opinions and Institutional Design." *Virginia Law Review*, 97, no 6, (2011): 1435-1474.
- Waldron, Jeremy. "Bicameralism and the Separation of Powers." *Current Legal Problems* 65, no. 1 (2012): 31-57.